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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,069	07/30/2001	Richard Wodzianek	034300-167	2663

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EXAMINER

WALSH, JOHN B

ART UNIT	PAPER NUMBER
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2151

MAIL DATE	DELIVERY MODE
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07/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/919,069	Applicant(s) WODZIANEK, RICHARD	
	Examiner John B. Walsh	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,587,691 to Granstam et al. in view of U.S. Patent No. 7,221,961 to Fukumoto et al.

Granstam et al. '691 disclose:

As concerns claims 1, 9 and 16, a system comprising: a computer (column 4, lines 13-25) operably connected to a network (column 1, lines 6-10), the computer having software configured to track the status of multiple modem units (column 4, line 9), the software allowing for the production of status checks (column 3, lines 3, 11-15, 42-45; column 7, lines 15-18, 35-42) to be sent to the multiple modem units.

As concerns claim 16, a method comprising: transmitting modem status requests to modem units across cellular network (column 3, line 66), determining whether status request is for that modem unit (column 4, line 9-ID) and, if so, constructing a modem status response and transmitting a wireless response from modem unit (column 3, lines 3, 11-15, 42-45; column 7, lines 15-18, 35-42; see also column 7, line 27; column 8, lines 39-41; figure 5); receiving modem status responses from a number of modem units and producing a display for a group of modem units (column 3, lines 3, 11-15, 42-45; column 7, lines 15-18, 35-42; see also column 7, line 27; column 8, lines 39-41; figure 5).

As concerns claims 2, 10 and 19, wherein the computer is connected by the Internet to a server (column 5, lines 15-25).

As concerns claims 3 and 11, wherein the server is connected to a cellular network (column 3, line 66).

As concerns claim 4, wherein the computer system sends requests across the network through the server, across the cellular network to the individual modem units (figure 1).

As concerns claim 5, wherein the modem units receive the requests and transmit status information back across the cellular network to the computer (column 3, lines 3, 11-15, 42-45; column 7, lines 15-18, 35-42; see also column 7, line 27; column 8, lines 39-41; figure 5).

As concerns claims 6, 12, 13 and 17, wherein the modem units transmit across a cellular network (column 3, line 66).

As concerns claims 7, 14 and 20, wherein the modem units run the UDP protocol (column 5, line 53) over IP.

As concerns claim 8, 15 and 21, wherein the modem units do not have a TCP stack at the modem unit (column 5, line 53-UDP).

As concerns claim 18, wherein the modem status requests are sent from a computer to the modem units (column 4, lines 13-25).

As concerns claims 22-24, the modem status information comprises at least one of: modem unit identification information (column 6, lines 31-35) or signal strength (column 7, line 27).

Granstam et al. '691 do not explicitly disclose the modem units being configured to reply without being controlled by the host processor.

Fukumoto et al. '961 teach:

Modem units (fig. 48;10) for portable devices (60) configured to receive external status check requests from the computer, each of the modem units being associated with a host processor (612) of the respective portable device, the modem units configured to reply with modem status information in response to the external status check request without being controlled by the host processor (22; col. 1, lines 10-27; col. 6, lines 14-16; col. 3, lines 25-44; col. 46, lines 60-63).

As concerns claim 25, each of said modem units is further configured to reply to the host processor with modem status information, in response to a local status check request from the host processor (col. 64, lines 1-35).

As concerns claim 26, said modem units include a memory (fig. 48; 23).

It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the system of Granstam et al. '691 with modem units not controlled by a host processor, as taught by Fukumoto et al. '961, in order to enhance operability through selectability of operated equipment (Fukomoto et al. '961: col. 2, lines 1-10). Such a modification is a combination of known elements yielding predictable results.

Response to Arguments

3. Applicant's arguments filed April 14, 2008 have been fully considered but they are not persuasive.

The applicant argues Granstam does not disclose transmission of status check requests from a computer and of modem status information from modem units in response. The claims

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have been given the broadest reasonable interpretation and these limitations have been addressed above. The applicant further argues the passages recited are not status check requests from a computer to mobile stations. The term "computer" is a broad term and the mobile stations of Granstam anticipate this claim term in both structure and functionality. The applicant further argues these passages do not involve the transmission of modem status information from modem units in response to status check requests. These limitations have been addressed above and are further disclosed at figure 6 (status) and col. 9, line 12 – status information. A user of the device of figure 6 would receive status info. There must be a request for the status info for it to be received. Furthermore the applicant is reminded it is the reference as a whole not the particular passages that are the basis of the rejection.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., so that modem units associated with different types of host processors can be tracked) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 571-272-7063. The examiner can normally be reached on Monday-Thursday from 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John B. Walsh/
Primary Examiner, Art Unit 2151